

# Exhibit D

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

JUANA CRUZ, OFELIA )  
BENAVIDES, JOSE ELIAS N.G, )  
GABRIELA VELAZQUEZ, RICARDO )  
GONZALEZ, HELESIO CRUZ, )  
ANGELICA CHAVEZ, CONCEPCION )  
PEREZ, OLGA PEREZ, MAVRIGO )  
SAENZ, JORGE MAOLEON, )  
HECTOR SANCHEZ, HECTOR )  
GONZALEZ, YESSY )  
PEREZ-MARTINEZ, MARIA DE )  
LOURDES CRUZ, RESENDO )  
LIEVANOS, ELIZABETH LARA, )  
LUIS ALBERTO )  
ZUNIGIA-CASTILLO, MIGUEL )  
CABALLERO SANCHEZ, )  
GUILLERMO DE LA )  
CRUZ-MENDOZA, CARLOS DANIEL )  
LOPEZ, GILDA RIVAS, ARMANDO )  
MORALES DE LLANO, LAZARO )  
GARCIA, MARIA DE JESUS )  
MEDINA, RICARDO ESQUIVEL, )  
RAFAEL SANCHEZ, GUILLERMO )  
RUIZ, ROSA QUINTANILLA, )  
)  
PLAINTIFFS, )  
)  
VS. )  
)  
DELGAR FOODS LLC A/K/A )  
DELIA'S TAMALES, )  
)  
DEFENDANT. )

CIVIL ACTION  
NO. 7:23-CV-00343  
  
JURY DEMANDED

\*\*\*\*\*

ORAL DEPOSITION OF  
ROSENDO LIEVANOS  
June 28, 2024

\*\*\*\*\*

1 ORAL DEPOSITION of ROSENDO LIEVANOS, produced  
2 as a witness at the instance of the Defendant, and duly  
3 sworn, was taken in the above-styled and numbered cause  
4 on the 28th day of June, 2024, from 12:27 p.m. to  
5 1:56 p.m., before Anica Diaz, CSR, RPR, CRR, in and for  
6 the State of Texas, reported by machine shorthand, at  
7 the Law Offices of Ricardo Gonzalez, 124 South 12th  
8 Avenue, Edinburg, Texas, pursuant to the Federal Rules  
9 of Civil Procedure and the provisions stated on the  
10 record or attached.

A P P E A R A N C E S

COUNSEL FOR THE PLAINTIFFS:

MR. RICARDO GONZALEZ  
OXFORD & GONZALEZ  
124 South 12th Avenue  
Edinburg, Texas 78539  
Tel: (956) 383-5654  
ric@oxfordandgonzalez.com

COUNSEL FOR THE DEFENDANT:

MR. STEPHEN J. QUEZADA  
OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.  
500 Dallas Street, Suite 3000  
Houston, Texas 77002  
Tel: (713) 655-5757  
stephen.quezada@ogletree.com

MS. LORENA D. VALLE  
PORTER HEDGES, LLP  
1000 Main Street, 36th Floor  
Houston, Texas 77002-6341  
Tel: (713) 226-6000  
lvalle@porterhedges.com

MS. ELIZABETH SANDOVAL CANTU  
RAMON WORTHINGTON NICOLAS & CANTU, PLLC  
1506 South Lone Star Way, Suite 5  
Edinburg, Texas 78539  
Tel: (945) 294-4800  
ecantu@ramonworthington.com

ALSO PRESENT:

Mr. Luis Gonzalez, Interpreter  
Ms. Olga Perez, Plaintiff

## I N D E X

	PAGE
Appearances.....	03
Exhibits.....	04
ROSENDO LIEVANOS	
Examination by Mr. Quezada.....	05
Changes and Signature.....	41
Reporter's Certificate.....	43

## E X H I B I T S

	PAGE
Defendant's Exhibit No. 1	
Questionnaire Filled out by Rosendo Lievanos.....	35
Defendant's Exhibit No. 2	
Affidavit of Rosendo Lievanos.....	36

1 sir?

2 A. Yes.

3 Q. And, again, my question for you is, on the  
4 first page, that is your signature?

5 A. Yes, yes.

6 Q. And you had a chance to review Exhibit 2 before  
7 you signed it?

8 A. Yes.

9 Q. And you signed it because everything was true  
10 and correct in Exhibit 2?

11 A. Yes, that is right.

12 Q. Mr. Lievanos, do you know who made the decision  
13 to hire you?

14 A. Yes.

15 Q. Who was that?

16 A. Albert Trevino. Alberto Trevino.

17 Q. Do you know who made the decision to terminate  
18 your employment?

19 A. Delia's company.

20 Q. Do you know who at the company?

21 A. No.

22 Q. Do you know who made the decision to promote  
23 you from a regular employee to a manager?

24 A. Yes.

25 Q. Who was that?

1 A. Alberto Trevino.

2 Q. Do you know who made the decision or decisions,  
3 rather, about how much you would be paid?

4 A. The first promotion, I did.

5 Q. And who was that?

6 A. Alberto Trevino.

7 Q. Do you know who made the decision about whether  
8 you would receive a bonus and if so how much that bonus  
9 would be?

10 A. No.

11 Q. Okay. Do you know who made the decision about  
12 what stores you'd work at?

13 A. No.

14 Q. Do you know who made the decisions what about  
15 benefits to offer?

16 A. No.

17 Q. Do you know who made any decisions about  
18 whether you should be written up?

19 A. Written up for what? I don't understand.

20 Q. You mentioned that you received a write up or  
21 some discipline before.

22 A. Oh, yes. Yes.

23 Q. Do you know who made the decision to do that?

24 A. Monica Juarez, the supervisor.

25 Q. Who is the employee who directed you on a

1 day-to-day basis?

2 A. Well, my supervisor.

3 Q. And you've already told us their names, right?

4 A. Yes.

5 Q. Mr. Lievanos, I understand that overall you  
6 disagree with the reason for your termination, okay?  
7 But setting aside the termination, did you -- it sounds  
8 like it's fair to say you enjoyed your job at Delia's,  
9 true?

10 A. I wasn't absent one single day in ten years.

11 Q. Okay. Okay.

12 MR. QUEZADA: Let's take a break, and I'll  
13 just look over the notes and finish up, okay?

14 THE REPORTER: Okay. Off the record at  
15 1:43 p.m.

16 (Break taken at 1:43 p.m. to 1:55 p.m.)

17 THE REPORTER: Back on record at 1:55 p.m.

18 Q. (By Mr. Quezada) Okay. Mr. Lievanos, we took  
19 a short break there, but we're back on the record, and  
20 I'll just remind you that you're still under oath, okay?

21 A. Yes, that's fine.

22 Q. Mr. Lievanos, regarding a couple more benefits  
23 that I left out. There was also a short term disability  
24 and long-term disability that the company paid for,  
25 correct?



1 they weren't original?

2 Q. And is that the only irregularity that you're  
3 talking about in this lawsuit?

4 A. Yes, yes.

5 Q. So just so that I have this clear, you're  
6 talking about deductions that were made from pay for  
7 benefits?

8 A. I'm referring to Social Security deductions.  
9 If it isn't original, then where was it going?

10 Q. Okay. Any other deduction?

11 A. No. That's the only one.

12 Q. So I'll represent to you, sir, that  
13 withholdings made for Social Security were remitted to  
14 the federal government.

15 Okay. Do you have any reason to believe  
16 that that's false?

17 MR. GONZALEZ: Objection; form.

18 A. No, it didn't add up. I mean, if it was being  
19 deducted, and it isn't original, where is it going? I'm  
20 talking about all the years.

21 Q. (By Mr. Quezada) Okay. Do you have any  
22 evidence or facts that Delia's was holding on to those  
23 dollars and not sending them to the Government?

24 A. No, I do not have.

25 Q. One allegation in this case is that Delia's was

1 maintaining two sets of books. Have you heard that  
2 before?

3 A. No.

4 Q. So sitting here today, you have no knowledge of  
5 two sets of books by Delia's; is that right?

6 A. That is un -- unknown to me.

7 Q. So let me ask you now about the -- well,  
8 anything else about irregularities, or did we cover it?

9 A. Yes, that's it.

10 Q. Okay. So, now, let me ask you about the  
11 intimidation. What are you claiming was intimidation?

12 A. Yes. When we were called upon, Delia's had her  
13 attorney. We were called without any legal  
14 representation.

15 Q. Did you ask for legal representation at that  
16 time?

17 A. No. I mean, the day we were called, the  
18 attorneys were there, she had her attorneys, and we had  
19 no knowledge about it.

20 Q. Okay. My question was, did you ask for an  
21 attorney at that time?

22 A. Not at that time.

23 Q. Okay. So what other -- what else is part of  
24 the intimidation?

25 A. Just that part.

1 situation.

2 Q. (By Mr. Quezada) Okay. And you also mentioned  
3 wrongful termination.

4 A. Yes.

5 Q. And are you saying that the termination was  
6 wrongful because of the discrimination, meaning is it  
7 the same thing, or is it something different you're  
8 telling us?

9 A. Well, I consider each separate but they are  
10 together. Discrimination, intimidation, labor  
11 irregularities, and unjustified termination.

12 Q. Were you aware that the reason Delia's  
13 terminated your employee was because it received a  
14 notice from the Government that it could no longer  
15 continue employing you?

16 A. Yes. Uh-huh.

17 Q. And sitting here today, do you have any facts  
18 or evidence that you can tell us that would show that  
19 that reason is false?

20 A. No, I do not.

21 Q. When you are telling us irregularities, what do  
22 you mean by that?

23 A. Yes. Well, they say -- well, supposedly our  
24 documents aren't right. Why was our insurance taken  
25 out? I mean, it was being taken out. Where'd it go if

1 they weren't original?

2 Q. And is that the only irregularity that you're  
3 talking about in this lawsuit?

4 A. Yes, yes.

5 Q. So just so that I have this clear, you're  
6 talking about deductions that were made from pay for  
7 benefits?

8 A. I'm referring to Social Security deductions.  
9 If it isn't original, then where was it going?

10 Q. Okay. Any other deduction?

11 A. No. That's the only one.

12 Q. So I'll represent to you, sir, that  
13 withholdings made for Social Security were remitted to  
14 the federal government.

15 Okay. Do you have any reason to believe  
16 that that's false?

17 MR. GONZALEZ: Objection; form.

18 A. No, it didn't add up. I mean, if it was being  
19 deducted, and it isn't original, where is it going? I'm  
20 talking about all the years.

21 Q. (By Mr. Quezada) Okay. Do you have any  
22 evidence or facts that Delia's was holding on to those  
23 dollars and not sending them to the Government?

24 A. No, I do not have.

25 Q. One allegation in this case is that Delia's was